IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12698 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NAGINBHAI BALUBHAI HARIJAN - Petitioner(s)

Versus

EXECUTIVE ENGINEER IRRIGATION SUB DIVISION NO.27 & 1 - Respondent(s)

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Appearance :

MS VANDANA L BHATT for Petitioner(s) : 1,
MR DIPEN DESAI, AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 14/09/2005

ORAL JUDGMENT

In the present petition, the petitioner-employee has challenged the legality of the award dated 24th December 2003 passed by the Labour Court, Bharuch. By the impugned award, the Labour Court was pleased to reject

the reference of the petitioner only on the ground that Irrigation Department is not an industry. No other issues were examined by the Labour Court.

2. In a recent Full Bench decision of this Court in the case of G.F.P.G.F.W. Union v. State of Gujarat, 2004 (2) GLR 1488, the Full Bench has clarified that Irrigation Department is an industry. In that view of the matter, the decision of the Labour Court that the petitioner was not engaged in an organization which is an industry cannot be upheld.

3. In the result, the award of the Labour Court is required to be and is hereby set aside. As noted earlier, the Labour Court had not given any finding on any other issues. For consideration of the reference on merits therefore, the proceedings shall have to be remanded to the Labour Court. Consequently, after setting aside the impugned award dated 24th December 2003, the proceedings are remanded to the Labour Court for fresh consideration in accordance with law. The Labour Court is requested to give priority consideration to the proceedings and endeavour to dispose of the same as expeditiously as possible and preferably within six months from the date

of receipt of this order. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)

(vjn)